

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE:) **Case No.** 16-23697-CMB
Carmen D. Fusca,)
 Debtor,)
United States Trustee,) **Chapter 11**
 Movant,)
 vs.)
Carmen D. Fusca,) **Related Document No.** 67-66
 Respondent.) **Hearing:** 05/24/17 @ 1:30 p.m.
) **Response Due:** 05/10/17
) **Document No.**

**RESPONSE TO THE MOTION OF THE UNITED STATES TRUSTEE TO CONVERT
CASE PURSUANT TO 11 U.S.C. §1112(b)**

AND NOW, comes the Debtor, by and through his counsel, Calaiaro Valencik and David Z. Valencik, and presents the following:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted.
8. All monthly operating reports will be filed prior to the hearing on this motion.
9. This report will be filed prior to the hearing on this motion.
10. It is denied that dismissal or conversion of the case to a Chapter 7 is in the best interest of creditors.
11. It is denied that cause exists in this case to dismiss or convert the case to a Chapter 7.

12. It is denied that cause exists in this case to dismiss or convert the case to a Chapter 7.

13. The Debtor did not immediately open a DIP account in this case and his necessary expenses were paid directly by his corporation. The accountant needed time to break down what money was to be attributed to the Debtor on the reports.

14. Denied; All required reports will be filed prior to the hearing on this motion.

15. Admitted.

16. Admitted.

17. All monthly operating reports will be filed prior to the hearing on this motion.

18. Admitted.

19. Admitted.

20. Admitted.

21. Denied; The Debtor did not immediately open a DIP account in this case and his necessary expenses were paid directly by his corporation. The accountant needed time to break down what money was to be attributed to the Debtor on the reports.

22. Admitted.

23. Admitted.

24. Admitted.

25. Admitted.

26. The Debtor will file the report under Fed. R. Bankr. P. 2015.3 prior to the hearing on this motion.

27. Admitted.

28. Denied; The Debtor did not immediately open a DIP account in this case and

his necessary expenses were paid directly by his corporation. The accountant needed time to break down what money was to be attributed to the Debtor before these reports could be filed.

WHEREFORE, the Debtor requests that this Honorable Court deny this motion as moot at the appropriate time.

Respectfully submitted,

DATED: May 10, 2017

BY: /s/ David Z. Valencik
David Z. Valencik, Esquire PA ID #308361
dvalencik@c-vlaw.com

BY: /s/ Donald R. Calaiaro
Donald R. Calaiaro, Esquire PA ID #27538
dcalaiaro@c-vlaw.com
CALAIARO VALENCIK
428 Forbes Avenue, Suite 900
Pittsburgh, PA 15219-1621
(412) 232-0930

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE:) **Case No.** 16-23697-CMB
Carmen D. Fusca,)
 Debtor,) **Chapter 11**
United States Trustee,)
 Movant,) **Related Document No.** 67-66
 vs.) **Hearing:** 05/24/17 @ 1:30 p.m.
Carmen D. Fusca,) **Response Due:** 05/10/17
 Respondent.) **Document No.**

**CERTIFICATE OF SERVICE OF RESPONSE TO THE MOTION OF THE
UNITED STATES TRUSTEE TO CONVERTCASE PURSUANT TO 11 U.S.C. §1112(b)**

I certify under penalty of perjury that I served the above captioned pleading on the parties at the addresses specified below or on the attached list on May 10, 2017.

Office of the United States Trustee, Liberty Center, 1001 Liberty Avenue, Suite 970, Pittsburgh, PA 15222

The type(s) of service made on the parties (first-class mail, electronic notification, hand delivery, or another type of service) was: Electronic Notification.

If more than one method of service was employed, this certificate of service groups the parties by the type of service. For example, the names and addresses of parties served by electronic notice will be listed under the heading "Service by Electronic Notification," and those served by mail will be listed under the heading "Service by First-Class Mail."

Executed on: May 10, 2017

/s/ David Z. Valencik
David Z. Valencik, Esquire PA ID #308361
dvalencik@c-vlaw.com

/s/ Donald R. Calaiaro
Donald R. Calaiaro, Esquire PA ID #27538
dcalaiaro@c-vlaw.com
CALAIARO VALENCIK
428 Forbes Avenue, Suite 900
Pittsburgh, PA 15219-1621
(412) 232-0930